



GCE Examiners' Report



Law
AS/Advanced

Summer 2024

Introduction

Our Principal Examiners' report provides valuable feedback on the recent assessment series. It has been written by our Principal Examiners and Principal Moderators after the completion of marking and moderation, and details how candidates have performed in each unit.

This report opens with a summary of candidates' performance, including the assessment objectives/skills/topics/themes being tested, and highlights the characteristics of successful performance and where performance could be improved. It then looks in detail at each unit, pinpointing aspects that proved challenging to some candidates and suggesting some reasons as to why that might be.¹

The information found in this report provides valuable insight for practitioners to support their teaching and learning activity. We would also encourage practitioners to share this document – in its entirety or in part – with their learners to help with exam preparation, to understand how to avoid pitfalls and to add to their revision toolbox.

Further support

Document	Description	Link
Professional Learning / CPD	WJEC offers an extensive programme of online and face-to-face Professional Learning events. Access interactive feedback, review example candidate responses, gain practical ideas for the classroom and put questions to our dedicated team by registering for one of our events here.	https://www.wjec.co.uk/home/professional-learning/
Past papers	Access the bank of past papers for this qualification, including the most recent assessments. Please note that we do not make past papers available on the public website until 12 months after the examination.	Portal by WJEC or on the WJEC subject page
Grade boundary information	Grade boundaries are the minimum number of marks needed to achieve each grade. For unitised specifications grade boundaries are expressed on a Uniform Mark Scale (UMS). UMS grade boundaries remain the same every year as the range of UMS mark percentages allocated to a particular grade does not change. UMS grade boundaries are published at overall subject and unit level. For linear specifications, a single grade is awarded for the subject, rather than for each unit that contributes towards the overall grade. Grade boundaries are published on results day.	For unitised specifications click here: Results, Grade Boundaries and PRS (wjec.co.uk)

¹ Please note that where overall performance on a question/question part was considered good, with no particular areas to highlight, these questions have not been included in the report.

Exam Results Analysis	WJEC provides information to examination centres via the WJEC Portal. This is restricted to centre staff only. Access is granted to centre staff by the Examinations Officer at the centre.	Portal by WJEC
Classroom Resources	Access our extensive range of FREE classroom resources, including blended learning materials, exam walk-throughs and knowledge organisers to support teaching and learning.	https://resources.wjec.co.uk/
Bank of Professional Learning materials	Access our bank of Professional Learning materials from previous events from our secure website and additional pre-recorded materials available in the public domain.	Portal by WJEC or on the WJEC subject page.
Become an examiner with WJEC.	We are always looking to recruit new examiners or moderators. These opportunities can provide you with valuable insight into the assessment process, enhance your skill set, increase your understanding of your subject and inform your teaching.	Become an Examiner WJEC

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Executive Summary

This report is designed to assist centres in identifying areas for improvement in their candidates' performances. While it includes critical feedback, these comments should not be considered universally applicable or as diminishing the overall strong performance observed among many candidates.

Overall, the Unit 1 paper was well-received, with fewer rubric errors and sincere attempts to address the required questions. However, some difficulties were evident, particularly with Questions 1 and 2. Statutory interpretation emerged as the more popular choice for the scenario-based question, while Alternative Dispute Resolution (ADR) was selected over juries, despite the latter's overall accessibility. A notable deficiency was the lack of case citation across all questions. When cases were cited, they were often presented in lowercase. Although spelling, punctuation, and grammar are not assessed, correct case citation and etiquette remain crucial learning components.

The standard of work this year was broadly comparable to previous years. Centres should focus on enhancing candidates' exam skills, as answers to Section B questions were frequently brief and lacked legal authority. The compulsory nature of Questions 1 and 2 presented challenges for some candidates, resulting in brief, confused, or sometimes unanswered responses. Candidates need reminders that these questions are designed to focus on specific areas of the specification, and responses should concentrate solely on those areas.

Although detailed case facts are not required, candidates should provide explanations of the relevance of cases, especially in questions requiring analysis and evaluation. Section B responses were weaker compared to Section A, possibly due to the analytical nature of the questions or issues with time management. Brief answers in this section often prevented candidates from accessing higher mark bands. There was also evidence of weak case citation, with many responses using vague references like "a case where...".

Candidates should be encouraged to carefully read and address the focus of each question, as many answers failed to do so. Some candidates appeared to write extensively on topics unrelated to the specific question. Linking answers directly to the question, particularly for evaluation questions, is essential. This was notably problematic with Question 5(b).

Performance on Unit 2 appeared lower compared to recent years, potentially due to the absence of advance information. The paper covered a comprehensive range of topics, including areas not featured in previous series. The facility factors indicated similar difficulty to previous years. Most candidates adhered to the rubric and attempted all required questions, although some struggled with the specificity of the compulsory questions.

Unit 3 was generally well-received, but candidates were better prepared for some questions than others. While performance was largely consistent with previous years, there was a notable deficiency in citing both statutory and case law. Many responses lacked adequate legal authority, particularly in questions on police powers and homicide. Candidates should focus on linking their answers directly to the question and avoid spending excessive time on introductions and conclusions. Essay skills require refinement, with a need for clear, structured responses that address the specific question posed.

Unit 4 performance was in line with previous years, though issues with handwriting legibility persist. Centres are advised to identify candidates with poor handwriting early to arrange appropriate access provisions. While most candidates adhered to the rubric and managed their time well, the use of model answers by some centres impacted candidates' ability to respond to specific questions effectively. Model answers should be adapted to address the specific question rather than relying on generic responses.

In summary, candidates need to improve their handwriting legibility, case citation, focus on the question, and general exam housekeeping. Emphasis should be placed on both knowledge and analytical skills to achieve higher marks, and centres should support candidates in developing these areas effectively.

General exam protocols need reinforcement, such as correctly labelling and numbering questions. Proper numbering is crucial, especially when candidates answer questions out of order.

Areas for improvement	Classroom resources	Brief description of resource
Application Skills	Criminal Law – suggested activities	Allows students to pin-point the key areas of non-fatal offences in a table format and offers a scenario-based question to allow application of key areas noted.
Evaluation Skills	Evaluate concept map WJEC: https://resources.wjec.co.uk/Pages/ResourceSingle.aspx?rId=6385 CBAC: https://resources.wjec.co.uk/Pages/ResourceSingle.aspx?rId=6386	Help students to focus on evaluation of case law through a mapping process.
Understanding demands of questions	Past paper questions & Mark schemes AS/A Level Law (wjec.co.uk)	Found on the WJEC website, these can be invaluable in preparing students for the type of questions that maybe asked of them and how they should be answered.

2150U10-1 LAW (WALES) AS

GCE

Summer 2024

AS UNIT 1

THE NATURE OF LAW AND THE WELSH AND ENGLISH LEGAL SYSTEMS

Overview of the Unit

Since one of the purposes of this report is to help centres identify areas for further improvement, it necessarily includes comments of a critical nature. These should not be taken as applying equally to all centres, nor are they intended to detract from the overall fine performance of many candidates.

The paper was generally well received by candidates, with fewer rubric errors and genuine attempts made across the required questions. Questions 1 and 2 presented some difficulties for certain candidates. Statutory interpretation remained the more popular choice for the scenario-based question. Surprisingly, ADR was chosen over juries, despite the overall accessibility of the latter. There was a noticeable lack of case citation across all questions, and when cases were cited, they were often in lowercase. Although spelling, punctuation, and grammar are not marked, teaching correct case citation and etiquette remains an important part of the learning process.

The standard appeared broadly comparable to previous years. Centres should prioritise enhancing exam skills for candidates, as answers to Section B questions were often brief and lacked legal authority.

- As in previous years, the compulsory nature of Questions 1 and 2 posed challenges for some candidates, leading to many brief, confused, and occasionally unanswered responses. Candidates need reminders that these questions focus on a narrow area of the specification, and it is crucial to concentrate solely on that area in their answers.
- Whilst **detailed** facts of cases are not needed, an explanation of the relevance of the case is desirable, especially in the questions that require an analysis and evaluation.
- Section B was generally weaker than Section A, potentially due to the analytical nature of the questions or candidates' time management struggles. Responses in this section were often very brief, preventing candidates from accessing the upper mark bands.
- There was also evidence of weak case citation – for example, 'a case *where....*'
- Candidates need to be encouraged to carefully read the questions, as many responses failed to address the main focus.
- Some candidates appear to be intent on "writing all they know" about a topic rather than addressing the specific question. Linking answers to the question is crucial, especially for evaluation questions, and there was a notable lack of focus on the question. This was particularly evident with Q5(b).

Candidates need reminders about general exam protocols, such as correctly labelling questions. While they are encouraged to answer questions in the order they prefer, proper numbering becomes especially important when answering non-chronologically

This report refers throughout to the **Facility Factor** of questions, to aid understanding it is defined as follows:

Facility factor: This is the mean mark as a percentage of the maximum mark and is a measure of the accessibility of the question. If the mean mark is close to the maximum mark the facility factor will be closer to 100% and the question would be considered very accessible. Conversely if the mean mark is low when compared to the maximum mark the facility factor will be small and the question considered less accessible.

Comments on individual questions/sections

Question 1 – Advantages and disadvantages of judicial precedent

Candidates overall seemed to find this question less accessible with a facility factor of 48.7% (the 3rd lowest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa. 92.6% of candidates attempted this question.

This question also had the 3rd lowest mean mark across the paper, with a mean of 4.9 marks (average mark for the question).

There were multiple ways to approach this answer, and a range of methods was seen. Some candidates opted to explain FORDD and the advantages and disadvantages of these methods. Excellent answers supported these points with case law, such as R v R for overruling to avoid injustice and adapt to societal changes, and R v Shivpuri for departing to correct a wrong turn in the law. However, many responses missed crucial cases, which are essential in a topic centred around case decisions. Some candidates focused solely on explaining the advantages and disadvantages of binding, original, and persuasive precedents. When done well, this approach was credited favourably, especially with proper case citations. However, there was a frequent misconception that these types of precedent are distinct and unconnected to methods used to avoid precedents.

A minor observation was that candidates often referred to "the judge" in the singular. While correctly stating that precedent is made only by superior courts, there was rarely acknowledgment that the Court of Appeal and the Supreme Court comprise three and at least five judges, respectively. This lack of knowledge led to incorrect criticisms of precedent as being made by "one biased judge." Although this did not detract significantly from the quality of the answers, it should be noted by centres.

Question 2 – Extrinsic aids to interpretation

Candidates on the whole seemed to find this question the least accessible with a facility factor of 45.3% (the lowest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa. 91.1% of candidates attempted this question.

This question also had the lowest mean mark across the paper, with a mean of 4.5 marks (average mark for the question).

This question was completed to a lower standard than question one, possibly because the narrow focus of the question made students doubt their ability to write in sufficient detail. Excellent answers included definitions of extrinsic and intrinsic aids, with examples of extrinsic aids such as dictionaries, Law Commission reports, and case law from other jurisdictions. Outstanding responses also referenced Hansard with correct citations to Pepper v Hart and included the famous Lord Denning quote from Davis v Johnson. However, many candidates simply listed these extrinsic aids without providing adequate detail.

Question 3 – Law Reform Scenario Question

This was the least popular question of the two optional questions with 23.8% (270 candidates) attempting this question. Candidates overall seemed to find this question accessible with a facility factor of 57.7% (the 3rd highest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 16.2 marks (average mark for the question).

Question 3 was less popular compared to Question 4. Among the responses, a minority of excellent answers cited a variety of law reform methods, supported by relevant examples, and importantly, linked these methods back to the scenario. Weaker answers mentioned law reform methods such as petitions, writing to MPs, and e-petitions, but these responses were largely descriptive and lacked practical application.

Question 4 – Statutory Interpretation scenario

This was the most popular question of the two optional questions with 75.8% (859 candidates) attempting this question. Candidates overall seemed to find this question accessible with a facility factor of 63.3% (the highest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 17.7 marks (average mark for the question).

This question, often popular among candidates, typically sees them well-prepared for statutory interpretation scenarios and adequately planning their responses. Excellent candidates can articulate the four rules of interpretation, provide a case example for each, and correctly apply them to the scenario. However, this year's scenario posed a challenge for several candidates due to the interaction between the statute and an online post by the defendant. Many candidates mistakenly applied the rules of interpretation solely to the online post, neglecting the statute itself. For example, the golden rule was often applied by suggesting that the word 'grab before they are gone' was modified, despite this phrase not being in the statute. The golden rule is generally the weakest of all four rules, but this year the online post caused great confusion and led to many candidates not applying any of the four rules to the statute itself (e.g. looking at whether Kate was up to 'mischief', showing a fundamental misunderstanding of the operation of the mischief rule). As always, there is still evidence of some confusion between the Mischief Rule and the purposive approach with some candidates believing them to be one and the same.

Some candidates when discussing the various rules evaluated them at the same time but there are no AO3 marks available in this question. Candidates need to fully understand the different requirements of AO2 and AO3 skills and the questions which refer to them.

Although generally, knowledge of rules was good, some weaker answers tended to simply mention the rule without describing how it works, thereby depressing their AO1 mark. Weaker responses made no reference at all to the rules but spent their time taking the legislation apart section by section without including any law in their answers.

Question 5 (a) Aims of sentencing

This was the least popular question of the two optional questions on Section B with 44% (498 candidates) attempting this question. Candidates overall seemed to find this question fairly accessible with a facility factor of 53.8% (the 5th highest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 4.3 marks (average mark for the question).

These responses were often informal, with candidates expressing the view that sentencing should "put them on the right track," lacking specific legal terminology like rehabilitation to prevent reoffending. Few provided legal citations, though mentions of the Sentencing Act 2020 were occasionally seen and favourably received. However, many answers drifted into discussing various types of sentences that could be imposed and emphasised that any fines would need to be paid by the parents. This divergence from the question's focus was notable in these responses.

Question 5 (b) Juries Evaluation

This was the least popular question of the two optional questions on Section B with 42.7% (484 candidates) attempting this question. Candidates overall seemed to find this question less accessible with a facility factor of 46.2% (the 2nd lowest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 11.1marks (average mark for the question).

Despite being a thoroughly examined topic, it is concerning to note the lack of legal authority in many answers. A significant majority of responses omitted the Criminal Justice Act 2003, which is surprising given its enactment over twenty years ago, leading to almost no mention of changes in eligibility for police, lawyers, and judges. Disappointingly, there are more than an acceptable number of candidates erroneously suggesting that police officers and legal professionals are still ineligible for jury service. Similarly, very few answers referenced the Criminal Justice and Courts Act 2015, which introduced new offences for juror misconduct, despite the legislation approaching a decade in existence.

An overwhelming majority of answers did not contain any legal citation, which resulted in just entering the 'good' band where evaluation had some breadth. However, where evaluation lacked both breadth and depth with no case law, it remained, at best, adequate.

The lack of relevant legal citations resulted in unsubstantiated points, superficial discussions, and overly informal responses. Another notable shortcoming was the failure to directly address the question, with many responses focusing instead on generic positives and negatives of juries without tying these arguments back to the question of their fundamental role.

Excellent answers demonstrated breadth and depth by discussing legislation such as the Contempt of Court Act 1981 and issues like jury secrecy, supported by cases such as R v Young and R v West. These responses also explored concepts like jury equity, referencing cases such as R v Owens, R v Ponting, and R v Kronlid to provide a comprehensive analysis.

Centres should be reminded that BSL interpreters are now allowed to assist deaf jurors since the inception of the Police, Crime, Sentencing and Courts Act 2022.

Overall, a disappointing response to what should be an accessible topic with plenty of legal authority, and opportunity for relevant discussion.

Question 6 (a) Reasons for using ADR

This was the most popular question of the two optional questions with 51.4% (582 candidates) attempting this question. Candidates overall seemed to find this question accessible with a facility factor of 57.6% (the 4th highest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 4.6 marks (average mark for the question).

Overall, the answer was well attempted. Most candidates could articulate the reasons for using Alternative Dispute Resolution (ADR), with some providing excellent insights into avoiding the adversarial nature of court. However, legal citation remained sparse, which was a common issue.

Many responses veered off-topic by focusing solely on describing the four methods of ADR. Those that linked these methods to their practical applications (e.g., highlighting cost-effectiveness and relationship preservation) could be credited, whereas mere descriptions of each method were not sufficient.

Question 6 (b) ADR evaluation

This was the most popular question of the two optional questions with 51.8% (587 candidates) attempting this question. Candidates overall seemed to find this question accessible with a facility factor of 58.5% (the 2nd highest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 14.1 marks (average mark for the question).

Similarly, to jury evaluations, candidates universally presented a generic assessment of the advantages and disadvantages of each ADR method, often without specific reference to the question. Responses that failed to address the effectiveness criterion and instead listed pros and cons of each method could not achieve the highest band.

While it's recognised that ADR typically offers fewer opportunities for legal citation compared to juries, an overwhelming majority of responses lacked any legal references. This omission consistently prevented answers from reaching the excellent band. Outstanding responses, however, cited important legal sources such as the Civil Procedure Rules, the Family Act 1996, the Arbitration Act 1996, and cases like *Churchill v Merthyr Tydfil*, *Halsey v Milton Keynes General NHS Trust*, and *Dunnett v Railtrack PLC*.

Additionally, many candidates mistakenly used the term "consolidation" instead of "conciliation." While these errors were considered leniently, they were frequent and should prompt centres to clarify the distinction between these terms.

2150U20-1 LAW (WALES) AS

GCE

Summer 2024

AS UNIT 2 THE LAW OF TORT

Overview of the Unit

The Unit 2 Law of Tort paper covers all assessment objectives on the AS Level Specification. AO1 is assessed in the 3 x 8-mark questions (qu.1-3), AO2 is assessed in the 18 mark 'advise' question 4 and AO3 is assessed in the 'analyse and evaluate' question 5. All questions are compulsory with no choice for candidates. This is reflected in the more limited scope of the specification for Unit 2; however, centres and candidates are therefore reminded of the fact that anything from the specification can be examined.

Overall, performance on the paper appeared to be of a lower standard than in recent years, perhaps impacted by the lack of any advance information. The paper was, nonetheless, accessible and covered a good range of the specification, examining topics that had not featured for a few examination series. The facility factors show similar difficulty to 2022 and 2023. It was pleasing to note that there were minimal rubric infringements; most candidates attempted all required questions which is commendable, especially considering the compulsory questions on the paper. However, the compulsory nature of the questions vexed some candidates who appeared under-prepared for the specificity of some questions.

There was decent use of legal authority, and this is to be encouraged in all questions. However, as in previous examination series, "case dumps" are very common and whilst detailed facts of cases are not needed, an explanation of the relevance of the case is desirable, especially in relation to the AO1 questions. A large proportion of candidates included copious amounts of facts for a limited number of cases, whereas range and a more concise focus on the legal principle established by the case would have been preferable.

The application question 4 appeared to be the weakest on the paper; perhaps evidence of selective revision and the presence of Occupiers' Liability for question 4 rather than negligence.

Candidates need to be encouraged to read the question – as there were a lot of answers that missed the focus of the question. This was especially evident with question 3 on breach of duty of care where a high proportion of candidates incorrectly focused on duty of care.

Candidates are better allocating their time appropriately between the shorter and longer responses. Many also decided to start with the longer higher mark responses. This can prove an effective tactic. This paper is one and a half hours long and timing is important to ensure sufficient time is allocated to the higher mark questions (questions 4 and 5).

Comments on individual questions/sections

Question 1 – Causation

On the whole this was answered satisfactorily, though despite it being a compulsory question was answered by 94.1% of candidates with a mean mark of 3.3 out of 8. Stronger candidates successfully summarised both factual and legal causation with accurate citation of a good range of case law to support each element. Weaker responses missed the focus of the question or only wrote a few lines on the nature of causation as the link between the result and the breach of duty of care. These answers were then not really developed, and candidates did there was limited citation of relevant law. The strongest answers covered factual and legal causation logically including remoteness of damage, novus actus interveniens and the egg-shell skull rule. To achieve a mark at the top end of the range, these elements were needed, along with accurate and focused case citation.

Note to Centres: It is good exam practice to ask learner to cite the case, followed by *where* and the rest of the sentence will usually be enough detail to explain the relevance of the case. For example – The Wagon Mound, *where* the damage was considered too remote.

Question 2 – General and special damages

On the whole, this straightforward question was answered satisfactorily with most candidates able to summarise the key differences between special and general damages and achieving around half marks. Some candidates omitted it altogether with 6% of candidates not answering it. Only 93.9% of candidates attempted it with a facility factor of 45.2 and a mean of 3.6. There were some instances of candidates confusing the special and general damages, but some credit was awarded where the explanation was clear, but the terms were mixed up.

Some candidates provided further detail beyond a basic definition of general and special damages with reference to some important key terms such as pecuniary and non-pecuniary and multiplier and multiplicand.

Candidates need to be reminded that the nature of these questions is such that there will be a narrow focus and candidates need to focus on the specific nature of the question; thus, although reference to other types of damages were not negatively marked, they were not the focus of the question and were therefore not likely to receive full marks.

There was more limited citation of legal authority in this question, such is the nature of the subject. However, there is some citation expected for the top mark.

Question 3 – Breach of duty of care

Unexpectedly, this was the weakest question on the paper. 98.6% of candidates attempted this question with a facility factor of 43.8 and a mean of 3.5. A high proportion of candidates explained duty of care rather than breach, attracting very few, if any marks. Stronger answers progressed logically from the meaning of breach of duty of care and the reasonable person test to special characteristics (e.g. professionals, learner drivers and children) followed by a range of the risk factors. To achieve a mark in the top band, a good range of the aforementioned points was needed along with case citation.

Candidates are reminded of the need to read the question carefully and to answer the specific question given rather than a question they may want. This is particularly relevant to Unit 2 where the specification is comparatively narrow, and questions can be easily confused.

Note to Centres: The fact that these questions only carry 8 marks require quite a refined examination technique and candidates need to be encouraged to focus only on what the question is asking.

Question 4 – Occupiers’ Liability Act 1957 application

The assessment objective being examined in this question was AO2 for 18 marks which requires candidates to apply the law to the scenario.

The focus was the OLA 1957, made clear in the question wording. It was disappointing that a large proportion of candidates missed the obvious point about Omar being a lawful visitor to the property in the exercise of his calling. There was also limited citation of specific sections of the OLA 1957 such as s.2(2) the common duty of care, 1(3)(a) ‘premises’ though candidates seemed more confident citing relevant case law though then needed to explain the case’s relevance to the point being applied.

The key point of application focused on whether Rhidian should have guarded against the obvious risk incidental to his calling. Stronger candidates appreciated this point, but a significant proportion missed it.

Note to Centres: This application model is very difficult for some candidates, especially at AS so it is important that they are trained to approach these questions in a methodical and systematic way, explaining the law and then applying it to the scenario. Once candidates develop a formulaic approach to the application of occupiers’ liability or negligence, this question should become very accessible.

Question 5 – Primary and secondary victims and damages for psychiatric harm

The assessment objective being examined in this question was AO3 for 18 marks which requires candidates to analyse and evaluate an area of tort law. A significant minority of candidates misinterpreted this question to be about an award of damages (general and special) rather than the law relating to psychiatric harm. This was not always done with a focus on psychiatric damage and therefore did not reach the upper mark bands.

Note to Centres: candidates need to be reminded that whilst an element of knowledge and understanding is necessary for these questions, in order to reach the upper echelons of marks, there needs to be an element of evaluation and in this case that focus needs to be on psychiatric injury. Candidates should be encouraged to better read the question to identify the focus of the question. It was accepted that, under exam conditions, some candidates may have interpreted the question as being about damages given the reference to such in the question. Where this discussion was linked to damages in the context of psychiatric harm, some credit was awarded.

The strongest answers provided a definition of primary and secondary victims with some explanation of the Alcock criteria and then some evaluation which would be implicit with the inclusion of case law.

Answers were sometimes very short and undeveloped and very descriptive generally. Candidates need to be reminded that half a page is generally not going to be enough for 18 marks.

Candidates continue to struggle with this subject and there was a lot to cover in the time available. Most who attempted this question were able to identify the difference between a primary and secondary victim but then did not develop their answer by considering the controls and evaluation was largely lacking.

Answers that scored well tended to start with a brief overview of the area of law and why the law treats psychiatric harm differently, followed by an explanation of primary victims followed by secondary and the 4 controls with relevant case law to support. Analysis and evaluation of a range of relevant issues was key to achieving the higher marks for this question.

Summary of Key Points

- Candidates need to be reminded of the importance of supporting their points with relevant legal authority. This could be case law, statute law or other supporting authorities, depending on the nature of the question.
- Cases – whilst copious facts are not required, candidates need to do more than merely ‘case drop’. Cases should be explained in relation to the point of law that they established.
- Centres are reminded of the need to develop writing skills to address the varying question styles – e.g. application for question 4 (AO2), analysis/evaluation for question 5 (AO3).
- Candidates need to be encouraged to read and answer the question set – there were a lot of answers that missed the focus of the question.
- For the evaluation questions, candidates should be assessing and evaluating throughout their answers and not just in the final paragraph.
- Answer structure is important, and centres should focus on developing this skill.

Centres should identify candidates with illegible handwriting and put measures in place to provide them with support and adjustments as required.

1150U30-1 LAW (WALES) A2

GCE

Summer 2024

A2 UNIT 3 THE PRACTICE OF SUBSTANTIVE LAW

Overview of the Unit

Since one of the purposes of this report is to help centres identify areas for further improvement, it necessarily includes comments of a critical nature. These should not be taken as applying equally to all centres, nor are they intended to detract from the overall fine performance of many candidates.

Unit 3 was generally well received, covering a comprehensive range of the specification. However, it was apparent that candidates were better prepared for certain questions compared to others.

The standard seemed largely consistent with previous years. Centres should focus on improving exam skills among candidates, as many answers lacked sufficient legal authority.

- There was a notable deficiency in citing both statutory law and case law, particularly evident in the questions on police powers and homicide. These areas offer abundant opportunities to substantiate answers with relevant case law, thereby enhancing the overall quality and depth of responses.
- Candidates often dedicate considerable time to crafting introductions and conclusions that essentially reiterate points made in the main body. This practice is not advisable, as time would be better utilized for more in-depth application or demonstrating a deeper understanding of the law.
- Candidates should be mindful of the weighting of Assessment Objectives for this paper. AO1, which focuses on Knowledge and Understanding, carries 20 marks. To attain the full range of marks, candidates must provide an excellent explanation of the law, followed by a detailed application to achieve the full range of 30 marks for AO2.
- Candidates should be reminded to carefully read the question, as many responses, particularly to questions 3 and 5, did not address its focus.
- Some candidates appear focused on "writing all they know" about a topic rather than addressing the question directly. It is crucial to link answers to the question, especially in application questions, yet there was a noticeable lack of attempts to do so. This issue was particularly evident in Q5.

Candidates need reminders about general exam protocols, such as correctly labelling questions. While they are encouraged to answer questions in the order they prefer, proper numbering becomes especially important when answering non-chronologically.

Comments on individual questions/sections

Question 1 – Defamation

This was the most popular question of the two human rights questions with 43.9% (303 candidates) attempting this question. Candidates overall seemed to find this question accessible with a facility factor of 58.3% (the 2nd highest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 29.5 marks (average mark for the question).

Responses observed were generally well structured. Many exemplary answers effectively applied defamation law, citing the Defamation Act 2013 and pertinent cases such as *Munroe v Hopkins* and *Collins* to bolster arguments on the serious harm test and available defences like sections 2, 3, and 4.

However, weaker responses predominantly centred on discussing Article 8 and 10 of the ECHR without substantial reference to defamation law. These responses constituted a minority among those reviewed.

Question 2 – Police Powers

This was the least popular question of the two human rights I questions with 41% (283 candidates) attempting this question. Candidates found this question accessible with a facility factor of 59% (the highest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 29.1 marks (average mark for the question).

There was a notable disparity in candidates' knowledge and application of stop and search powers. Some demonstrated excellent understanding, supported by thorough citation and effective application. Most candidates discussed stop and search, referencing sections 1, 2, and 3, and Code A, albeit sometimes confusing them. However, detailed information was generally lacking, with sparse mention of relevant case law beyond occasional references to *Bristol*.

Regarding arrest, a few candidates provided detailed insights into S24 and S28, along with related case law, but this was exceptional rather than the norm. Arrest-related responses typically lagged, often conflated with stop and search or omitted entirely, indicating a widespread misunderstanding of the distinction between these powers.

Some scripts excelled in discussing detention issues, citing relevant section numbers and addressing the roles of custody officers, detention periods, and procedures like S56, S58, and fingerprinting under S61. Even weaker responses identified police omissions in detention, though lacking specific section numbers or citations.

Surprisingly, some candidates were unaware of the date of PACE enactment, reflecting poorly in their answers. Many merely reiterated the scenario without legal grounding, focusing vaguely on stop and search, briefly mentioning arrest, and discussing detention.

Unfortunately, many scripts lacked support from section numbers, which limited their marks in higher bands. Candidates should remember to substantiate their points with legal authority, primarily section numbers and Codes of Practice, and relevant case law where applicable.

Centres should ensure that questions 1 and 2 within the human rights section include references to relevant human rights contexts, such as Article 5 (right to liberty) for police powers and Articles 8 & 10 (right to privacy and freedom of expression) for defamation, to enhance responses comprehensively.

Question 3 – Discharge of contract

This was the least popular question of the two contract law questions with 5.8% (40 candidates) attempting this question. Candidates found this question less accessible with a facility factor of 38.4% (the lowest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 19.2 marks (average mark for the question).

Few candidates generally identified the key legal issues, including contract formation, performance, and potential liabilities arising from unforeseen circumstances.

Strong responses, of which there were few, referenced relevant case law to support their analysis, such as cases involving frustration of contracts due to unforeseen events. They included a focused introduction including a definition of a valid contract, the difference between common mistake and frustration. The three areas of frustration were described with case law and appropriately applied to the scenario.

However, many responses lacked depth in their analysis, providing superficial explanations without delving into the specific legal implications for Olivia based on the scenario provided.

A significant number of candidates included irrelevant information or excessive detail that did not contribute to answering the specific legal questions posed by the scenario. Weaker responses failed to sufficiently apply legal principles to the facts of the scenario, instead providing general statements without relating them directly to the issues faced by Olivia.

Overall, though there was a wide range of answers including some, where the candidates focused on misrepresentation with brief commentary on frustration, but content was accurate, sometimes supported with valid citation and applied to the scenario. Other answers addressed two out of three areas of frustration. There were occasions where candidates described the case but did not name it.

Candidates should focus on addressing the question directly and applying relevant legal principles to the specific facts provided in the scenario. It is crucial to provide a detailed analysis of how the reported case law and legal sources apply to Olivia's situation, considering both sides of the argument where applicable. Avoiding irrelevant discussions and maintaining conciseness will lead to more effective and higher-scoring answers.

Question 4 – Consideration

This was the most popular question of the two contract law questions with 10% (69 candidates) attempting this question. Candidates found this question less accessible with a facility factor of 44.6% (the 2nd lowest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 22.3 marks (average mark for the question).

Overall candidates were able to make a satisfactory description of the elements of a contract and consideration with some basic reference to case law and appropriate application to scenario.

Candidates generally identified the key legal issues, including breach of contract, variation of contract terms, and the enforceability of promises made after the original contract was formed.

Strong responses, of which there were few, referenced relevant case law and legal principles, such as consideration, promissory estoppel, and contractual performance obligations, to support their analysis.

Few candidates effectively analysed how the specific facts of the scenario related to contractual principles and legal outcomes, such as the impact of Susan's promise to pay an additional amount if Andy completed the job on time.

Many responses lacked depth in their analysis, providing superficial explanations without delving into the specific legal implications for Andy based on the scenario provided.

A significant number of candidates did not use sufficient legal authority or case law to substantiate their advice, which weakened the credibility of their arguments. There was a plethora of case law here, including, *Chappell v Nestle*; *Tweddle v Atkinson*; *Williams v Roffey*; *Pinnel's case*; *Central London Property Trust v High Trees House*; *D & C Builders v Rees*.

Often, candidates included irrelevant information or excessive detail that did not contribute to answering the specific legal questions posed by the scenario.

As for question 3, candidates should focus on addressing the question directly and applying relevant legal principles to the specific facts provided in the scenario. It is crucial to provide a detailed analysis of how reported case law and legal sources apply to Andy's situation, considering both sides of the argument where applicable.

Question 5 – Homicide defences

This was the least popular question of the two criminal law questions with 29.9% (206 candidates) attempting this question. Candidates generally found this question less accessible with a facility factor of 50.3% (the 3rd lowest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 25.1 marks (average mark for the question).

The question prompted candidates to explore various defences available to Robert, yet many digressed into general discussions about murder without adequately addressing the specific defences queried. While broader discussions on murder were credited, the question primarily sought insights into defences like loss of control and self-defence for Robert.

A structured approach would involve analysing the actus reus and mens rea of murder, followed by exploring partial defences such as loss of control, and general defences like self-defence, which was applicable to Robert.

Weaker responses lacked sufficient case law to substantiate the defences, impacting their AO1 marks, which necessitates robust case law support in this topic area. Some responses revealed concerning gaps in basic criminal law understanding, with references to involuntary manslaughter as a defence and confusion between mens rea concepts.

Candidates were rightly credited for discussing murder's actus reus and mens rea in relation to Robert's potential charges, but many neglected detailed considerations of applicable defences, often providing sparse information in this regard.

Various defences were mentioned, some irrelevant to the scenario such as intoxication, diminished responsibility, and insanity. While some explored loss of control, few delved into the requirements of relevant sections of the Coroners & Justice Act 2009, though notable exceptions provided detailed analysis of whether Robert's discovery of his son with the intruder triggered the qualifying triggers.

Self-defence emerged as a crucial defence for Robert, yet discussions often lacked depth, presenting perspectives without adequate consideration of s.76 of the Criminal Justice and Immigration Act 2008, and pivotal cases such as *R v Palmer* and *R v Gladstone Williams*. Surprisingly, there was minimal discourse on the concept of "reasonable force."

Centres should encourage candidates to focus their attention on relevant defences rather than those that do not apply, ensuring a more targeted and comprehensive examination of the topic.

Strong candidates also considered involuntary manslaughter under unlawful act manslaughter, demonstrating a broader understanding of potential legal outcomes.

Question 6 – Homicide

This was the most popular question of the two criminal law questions with 69.7% (481 candidates) attempting this question. Candidates generally found this question accessible with a facility factor of 57.3%. The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 28.7 marks (average mark for the question).

Most candidates successfully defined murder, yet many delved into discussing its elements, such as "Human Being," rather than focusing on the question's emphasis on causation. Both factual and legal causation were generally addressed adequately, with appropriate use of legal authority to support explanations and provide sufficient depth in application. However, discussions on the potential intervening act of the doctor often lacked supporting case law for legal causation.

The emphasis on the actus reus of murder overshadowed consideration of mens rea, with frequent inaccuracies or omissions regarding direct or oblique intent. Some candidates erroneously opted for unlawful act manslaughter instead of addressing murder.

Voluntary manslaughter was inconsistently covered. Candidates often detailed diminished responsibility and loss of control extensively but failed to integrate these partial defences effectively into a comprehensive application of the law. This limited their ability to provide a thorough analysis.

A minority of candidates mistakenly referred to non-fatal offences, illustrating a misunderstanding of the question's focus.

Common errors included mislabelling unlawful act manslaughter as a defence and confusing voluntary and involuntary manslaughter.

1150U40-1 LAW (WALES) A2

GCE

Summer 2024

A2 UNIT 4 SUBSTANTIVE LAW PERSPECTIVES

Overview of the Unit

The paper appears to have been well received with performance in line with previous years. General observations are more difficult to make as whole papers were not seen due to online marking. There remains an issue with the legibility of some candidates' handwriting; centres are advised to identify these candidates early to ensure appropriate access arrangements are in place. In some cases, work could not be marked because of the level of the illegibility.

It was pleasing to see most candidates adhered to the rubric of the paper, answering the required number of questions. Candidates also appeared to have organised their time appropriately between the two required answers.

The most popular sections were again criminal law and human rights law. Answers on contract law, though in the minority in comparison, were strong and centres are to be commended on the general quality of these responses. The AOs being examined are AO1 for 20 marks and AO3 for 30 marks. As such, answers need to be evaluative to secure the top marks. They also need to address the specific question set rather than candidates writing all they know about a particular topic.

Essay skills also need to be refined as, although candidates did well to explain the law clearly, this was not always brought back to the question posed and there were few instances where this evaluative theme was a strong feature of the response. In addition, essays should be structured appropriately with a clear introduction that unpacks the question, a paragraphed and focused main body and a clear conclusion that directly addresses the question posed.

As a general observation it was apparent that the use of model answers was prominent in some centres marked. Where this was evident learners were sometimes unable to cope with the more specific nature of some questions and candidates are reminded of the importance of addressing the question set, where possible, referring to the quotation and niche theme of the question. It is apparent that the use of model answers is detracting from the skill of developing legal argument in response to the question set. Disappointingly, it was also clear that some of the model answers, circulated by Centres, were sometimes inaccurate and/or out of date and reliance on these restricted candidate marks.

Some general observations:

- Candidates should be reminded of the fact that any area of the specification can be examined on Unit 3 or Unit 4.
- Though model answers can be used, it is important to adapt the argument to meet the needs of the specific question being set.
- Whilst detailed facts of cases are not needed, an explanation of the relevance of the case is desirable, especially in questions that require an analysis and evaluation as they all do on Unit 4.
- There was also evidence of weak case citation – for example, 'a case where....'.

- Candidates need to be encouraged to read the question – as there were a lot of answers that missed the focus of the question or merely explained the law on a topic without considering the evaluative element.
- In order to evaluate effectively, candidates must structure their answers with a clear introduction that unpacks the question, a paragraphed main body that evaluates back to the question and a conclusion that draws together the key issues and ‘answers’ the question posed. Centres should develop writing skills in order to help candidates cope with the demands of these higher order questions.

Comments on individual questions/sections

Question 1

This was the most popular question of the two human rights questions with 48.7% (337 candidates) attempting this question. Candidates found this question accessible with a facility factor of 62.5% (the highest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 31.3 marks (average mark for the question).

Candidates coped well with the demands of the question and there were many comprehensive answers. However, even some of the strongest responses missed the focus of the question which centred on whether protection of human rights would be strengthened or weakened by a Bill of Rights.

Common themes included an exploration of the residual freedoms of the ECHR and how these have been strengthened by the impact of the HRA through description of sections such as S.2, S.3, S.4, S.6, S.19 and S.7. It was pleasing to note that generally there was case law such as *R v A*, *Bellinger*, *Ghaidan*. The cases were most related to S.3 and S.4 although some learners did identify *YL* and *Poplar* in relation to S.6. Most candidates answered this as an HRA answer but included an evaluative comment against each section noting the benefits of said section and what would happen if it was no longer law i.e. an erosion of protection. Excellent answers (which were in smaller, but not insignificant, numbers) were able to go further to provide a comparative analysis between the pre 1998 position of residual freedoms, the current protection and a possible return to this if the HRA were to be repealed. This needed to be the main focus to access the higher bands. Very few were up to date with the recent developments on this matter although the law remains in a state of flux and so credit was given where it could be, considering this uncertainty.

Question 2

This was the least popular question of the two human rights questions with 37.3% (258 candidates) attempting this question. Candidates found this question accessible with a facility factor of 57.1% (the 3rd highest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 28.5 marks (average mark for the question).

Police powers has traditionally been asked as a Unit 3 ‘application’ question, but it could quite as possibly feature on Unit 4 as it has this year. It was a popular choice and majority of candidates seemed well prepared for this question having perhaps just revised it for Unit 3. Most were able to explain a wide range of police powers in the areas mentioned in the question (stop and search, arrest, detention and interrogation); there was consequently good citation of legal authority. AO1 was generally stronger than AO3 (perhaps as they had already revised the topic for Unit 3).

In a minority of scripts, there were some good attempts to draw the discussion back to the question posed and the central issue of the balancing of rights, and there were some excellent examples of sophisticated arguments made. Reference had to be made to the relevant articles of the ECHR in order to frame the evaluation. There were some sophisticated discussions of the nature of these qualified rights and the balancing act that takes place.

Question 3

This was the least popular question of the two contract law questions with 3.3% (23 candidates) attempting this question. Candidates found this question less accessible with a facility factor of 43.7% (the lowest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 21.9 marks (average mark for the question).

Contract law remains a less popular choice for centres to teach.

This was the less popular choice for the contract law option but, where attempted, was generally answered well.

Common themes included a discussion of the consequences of economic duress, the nature of the threat, the effect of the threat and the broadening of the doctrine. Answers were broadly descriptive with AO1 much stronger than AO3. The question posed was quite specific and only a minority of strong scripts really grappled with the focus of whether the law provides adequate safeguards against coercion when executing the contract. This sophisticated evaluation and link to the question is necessary for marks in the top half of the top band. Compared with other questions, citation of relevant case law was more limited it seemed.

Question 4

This was the most popular question of the two contract law questions with 12.3% (85 candidates) attempting this question. Candidates found this question less accessible with a facility factor of 50.1% (the 2nd lowest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 25.1 marks (average mark for the question).

Of the responses seen, question 4 was the more popular choice. The question might have appeared more straightforward but centred around the changes in technology and society which many candidates missed. Candidates are reminded to focus on the question posed and ensure they bring back the evaluation to link to the question. This might also then assist with identifying the topic words of the question and ensure they are focusing on the correct material.

There was generally good citation of legal authority in a significant proportion of scripts, without which, candidates did not score highly for AO3.

Question 5

This was the least popular question of the two criminal law questions with 47.8% (331 candidates) attempting this question. Candidates found this question accessible with a facility factor of 57.7 % (the 2nd highest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 28.8 marks (average mark for the question).

Criminal law questions remain the more popular choices on the paper and responses were strong in comparison to some of the other questions.

This question on theft appeared to be one of the strongest responses on the paper and most candidates who attempted this question accurately moved through the law on theft logically including a good range of case law to support. Consequently, these scripts scored highly for AO1.

Again, it was important to bring the discussion back to the question and the strongest scripts were well structured with a clear introduction, paragraphed main body that linked to the question and then a conclusion that drew it all together and 'answered' the question posed with a clear statement. Reform proposals were needed to truly address the question as they are so present for this topic. Answers were weaker on AO3 but overall strong responses.

Question 6

This was the most popular question of the two criminal law questions with 51.5% (356 candidates) attempting this question. Candidates found this question accessible with a facility factor of 52.4% (the 4th highest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had a mean mark of 26.2 marks (average mark for the question).

Responses to this question were generally weaker, perhaps due to the specific nature of the defence featured.

There tended to be some very general responses and some candidates did not grapple with the complexities of insanity as a defence and the disparity between the medical and legal definition. The evaluation required was largely lacking and there appeared to be a higher proportion of weak responses to this question. Answers tended to be quite general and not all referred to the M'Naghten rules, which was frustrating.

Though cases are important, it is not necessary to write copious amounts on their facts but, rather, focus on the point of law established and then evaluate this in light of the question posed. Centres/candidates are reminded that evaluation is worth 30 of the 50 marks. Disappointingly again, only a minority of candidates referred to a decent range of case law to support their argument.

Summary of Key Points

- Centres should identify candidates with illegible handwriting and put measures in place to provide them with support and adjustments as required.
- Centres are reminded of the need to develop writing skills to address the varying question styles – e.g. evaluation for AO3 questions.
- Candidates need to be encouraged to read and answer the question set – there were a lot of answers that missed the focus of the question. For the evaluation questions, candidates should be assessing and evaluating throughout their answers and not just in the final paragraph.
- Candidates need to be reminded of the importance of supporting their points with relevant legal authority. This could be case law, statute law or other supporting authorities, depending on the nature of the question.
- Cases – whilst copious facts are not required, candidates need to do more than merely 'case drop'. Cases should be explained in relation to the point of law that they established.
- Essay structure is important, and centres should focus on developing this skill.

Supporting you

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Our friendly subject team is on hand to support you between 8.30am and 5.00pm, Monday to Friday.

Tel: 02922 404 283

Email: law@wjec.co.uk

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